IN THE CIRCUIT COURT OF BOONE COUNTY, WEST VIRGINIA

CLYDE P. HOLSTEN,

Plaintiff,

v. **Civil Action No. 13-C-3**
Honorable William S. Thompson

ELK RUN COAL COMPANY, INC. and
ALPHA NATURAL RESOURCES, INC.,

Defendants.

AFFIDAVIT IN SUPPORT OF ALPHA NATURAL RESOURCES, INC.'S MOTION TO DISMISS

COMMONWEALTH OF VIRGINIA

COUNTY OF WASHINGTON, TO-WIT:

COMES NOW Affiant Frank J. Wood, a competent person over the age of eighteen (18), who, being by me first duly sworn, did depose and say as follows:

1. I am the Executive Vice President, Chief Financial Officer, Treasurer, and Assistant Secretary of Defendant Alpha Natural Resources, Inc. ("Alpha");

2. The facts set forth in this Affidavit are known to me personally or are based on the business records of Alpha or on information obtained during my investigation of the facts stated in this Affidavit, all of which facts I believe to be true;

3. At all times relevant to Plaintiff's Complaint, Elk Run Coal Company, Inc. was an indirect subsidiary of Massey Energy Company;

4. On January 29, 2011, the date of Plaintiff's accident, Alpha and Massey were direct competitors in the coal mining industry and remained competitors until June 1, 2011, the date that Alpha acquired Massey;

5. As such, on January 29, 2011, and at all times relevant to Plaintiff's Complaint, Alpha did not have any ownership interest in, hold the mining permits to, exercise any control over, or have any economic interest in mining operations belonging to and/or conducted by any Massey entity, including by not limited to those belonging to Elk Run Coal Company, Inc.;

6. The acquisition of June 1, 2011, only allowed Alpha to assume indirect ownership of all Massey subsidiaries; it did not change the legal identity of any former Massey entity,

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including Elk Run Coal Company, Inc., nor were the assets or liabilities of those entities transferred, merged into or blended with those of any other entity, or otherwise changed;

7. Consequently, on January 29, 2011, and at all times relevant to Plaintiff's Complaint, Alpha Natural Resources, Inc. was not in any way connected to the events and/or the mining operations giving rise to Plaintiff's Complaint.

IN WITNESS WHEREOF, the undersigned Frank J. Wood has affixed his signature this 4th day of February, 2013.

Frank J. Wood

Taken, sworn to, and subscribed before me, a Notary Public in and for the county and state aforesaid, this 4th day of February, 2013.

Jessica Clevinger
NOTARY PUBLIC

JESSICA CLEVINGER
Notary Public
Commonwealth of Virginia
My Commission Expires May 31, 2013
Commission ID# 7280424

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